

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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DUDLEY HARRIS,

Plaintiff,

- v -

Civ. No. 9:08-CV-271  
(DNH/RFT)

FISCHER, *et al.*,

Defendants.

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**APPEARANCES:**

**OF COUNSEL:**

DUDLEY HARRIS  
99-B-1293  
Plaintiff, *Pro Se*  
Franklin Correctional Facility  
62 Bare Hill Road  
P.O. Box 10  
Malone, New York 12953

HON. ANDREW M. CUOMO  
Attorney General of the State of New York  
Attorney for Defendants  
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Albany, New York 12224

DOUGLAS J. GOGLIA, ESQ.  
Assistant Attorney General

**RANDOLPH F. TREECE**  
**United States Magistrate Judge**

**REPORT-RECOMMENDATION and ORDER**

This prisoner civil rights action came to a close upon the parties' settlement, which was endorsed by the Court. Dkt. No. 80. Plaintiff now asks the Court, in essence, to rescind that contract and place the matter on the active trial calendar due to Defendants' failure to pay the agreed upon amount within the allotted time period. Dkt. No. 81.<sup>1</sup> Defendants note, in response, that they

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<sup>1</sup> By Oral Order, entered on the Docket Report, the Honorable David N. Hurd, United States Magistrate Judge, referred this discreet issue to the undersigned for report-recommendation. Docket Entry, dated Sept. 1, 2010.

obtained approval of the settlement and the penalty for failing to provide the money in a timely fashion is not annulment of the contract, but rather calculation of interest. Dkt. No. 82.

Based on our review of the relevant documents, it is clear that Plaintiff's request should be **denied**.

**WHEREFORE**, it is hereby

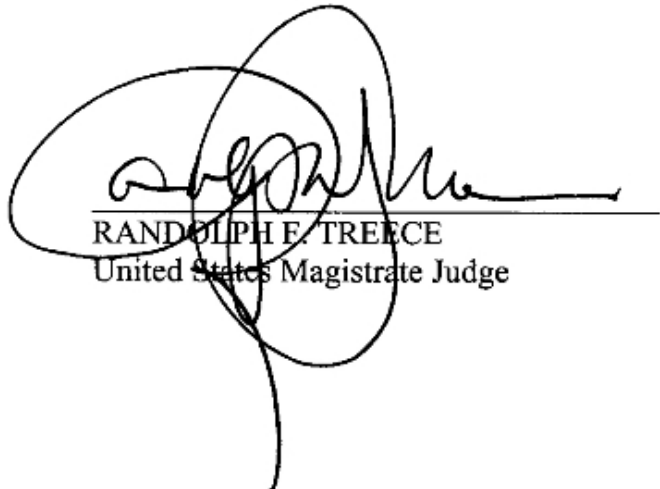
**RECOMMENDED**, that the Plaintiff's Letter Motion, Dkt. No. 81, should be **DENIED**; and it is further

**ORDERED**, that the Clerk of the Court serve a copy of this Report-Recommendation and Order upon the parties to this action.

Pursuant to 28 U.S.C. § 636(b)(1), the parties have fourteen (14) days within which to file written objections to the foregoing report. Such objections shall be filed with the Clerk of the Court.

**FAILURE TO OBJECT TO THIS REPORT WITHIN FOURTEEN (14) DAYS WILL PRECLUDE APPELLATE REVIEW.** *Roldan v. Racette*, 984 F.2d 85, 89 (2d Cir. 1993) (citing *Small v. Sec'y of Health and Human Servs.*, 892 F.2d 15 (2d Cir. 1989)); *see also* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72, 6(a), & 6(e).

Date: September 2, 2010  
Albany, New York



RANDOLPH F. TREECE  
United States Magistrate Judge